

OCT 14 2015

CLERK, U.S. DISTRICT COURT

By Deputy

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

MICHAEL BOHANNAN

Plaintiff,

VS.

WESLEY GRIFFIN, ET AL.,

Defendants.

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NO. 4:11-CV-299-A

MEMORANDUM OPINION

and

ORDER

On October 9, 2015, plaintiff, Michael Bohannan ("Bohannan"), filed a document titled "Plaintiff's Motion for Reconsideration of the September 29, 2015 Order Denying Plaintiff's September 28, 2015 Filed Documents." The court has concluded that such motion should be denied.

Of interest were Bohannan's complaint in such motion that "the Court refuses to appoint him counsel to help him litigate this case" and his representation to the court that he has "very limited experience conducting litigation on his own behalf." Bohannan has not been altogether candid with the court.

Because of this court's prior experiences with civil litigation filed by Bohannan pro se, and the need for the court from time-to-time to study Bohannan's litigation history, the court has a significant amount of knowledge relative to that history, including the civil cases in which Bohannan represented

himself. The court is setting forth below a list of all civil cases¹ of which the court has knowledge to which Bohannon was a party, with an indication of those as to which the court has information that Bohannon represented himself.

Case Nos. 1, 2, & 3

July or August 1993 and November 1994: State habeas actions filed in the Court of Criminal Appeals of Texas as Case Nos. 25,282-01 through -03. The court's information is that the cases were dismissed without written orders on September 23, 1993, June 29, 1994, and March 15, 1995, respectively. (The only readily available documentation the court has relative to these cases is the information contained in the attached Exhibits "A," "B," and "C.")

Case No. 4

October 7, 1994: Petition for writ of habeas corpus filed by Bohannon on October 7, 1994, in the United States District Court for the Northern District of Texas as Case No. 4:94-CV-684-A. Bohannon represented himself. He was complaining of two 25-year sentences he had received for two aggravated-rape-with-a-deadly-weapon offenses.² His sentences were imposed in November 1983

¹The petitions for writ of habeas corpus Bohannon filed in federal court are treated as civil cases. For convenience, the court is treating Bohannon's state habeas corpus actions as civil cases as well.

²The facts pertaining to Bohannon's two aggravated-rape-with-a-deadly-weapon offenses were described by the Texas Supreme Court as follows:

In September 1982, Michael Wayne Bohannon, then 26, married, and employed as a machinist, rode his bicycle past K.C.'s home several times and watched her inside through a window. One evening, he donned a ski mask and carrying a large knife, entered the home through the rear door, walked down the hallway past a room in which a child was sleeping, and entered K.C.'s bedroom. She was lying on the bed, reading a newspaper. Bohannon forced her to perform oral and vaginal sex, then left. Looking back on it, Bohannon testified in this case that he thought he would get some satisfaction or self-fulfillment out of raping K.C., and in some way, he expected K.C., 27, to "like being raped".

Some three weeks later, Bohannon was driving around on his lunch break when he saw P.H., 27, enter her home. He stopped, put on his ski mask, picked up his knife, and walked through the front door. P.H. was with a group of children, whom Bohannon made her move to another room. He then took P.H. to her bedroom and forced her to

(continued...)

by Criminal District Court No. 1 of Tarrant County, Texas. In addition to the filing of his petition for writ of habeas corpus, Bohannon filed a Motion for Entry of Default Judgment or in the alternative Motion for Summary Judgment, a Motion Requesting Expansion of the Record or in the alternative a Request for Leave of Court to Conduct Discovery, and a Motion to Dismiss Without Prejudice or Motion to Hold in Abeyance. The action was dismissed without prejudice on February 2, 1995, because of Bohannon's failure to exhaust state remedies.

Case No. 5

January 5, 1995: Petition instituting civil action filed in the 345th District Court of Travis County, Texas, as Case No. 95-00141 by Bohannon against Texas Board of Criminal Justice and Texas Department of Criminal Justice. Bohannon represented himself. The nature of the action was described in an opinion of the Austin Court of Appeals of Texas as follows:

Bohannon is an inmate who had accrued good conduct time while incarcerated. He was released on mandatory supervision, which was later revoked. He filed the instant suit claiming to have been adversely affected by the Board's September 17, 1993, policy directing that the Department cease the restoration of good conduct time after the revocation of mandatory supervision. Bohannon's petition alleged that (1) under former Texas Government Code section 498.005, the Board exceeded its statutory authority by ordering the Department to cease the restoration of good conduct time in the absence of a finding that prison crowding had decreased; (2) the Board's acts in

²(...continued)

perform oral and vaginal sex. He now recalls, as before, he thought he would get some satisfaction from raping P.H., "maybe . . . feel more of a man".

Bohannon was apprehended and in 1983 pleaded guilty to two counts of aggravated rape with a deadly weapon, and was sentenced to 25 years' imprisonment. Court papers suggest that he committed a third rape for which he was not charged, but Bohannon denies it.

In re Commitment of Bohannon, 388 S.W.3d 296, 299 (Tex. 2012).

developing the policy were procedurally defective; (3) he had a vested property right to the restoration of good conduct time; and (4) the policy was retroactively applied to him. The trial court granted the State's motion for dismissal of the cause under section 13.001.

Bohannon v. Texas Bd. of Criminal Justice, 942 S.W.2d 113, 115 (Tex. App.--Austin 1997, writ denied). The appellate court reversed the dismissal and remanded the case to the trial court. The case was finally dismissed in September 2006 for want of prosecution.

Case No. 6

May 9, 1995: Prisoner civil rights complaint filed by Bohannon on May 9, 1995, in the United States District Court for the Southern District of Texas as Case No. 4:05-CV-1435. Bohannon represented himself. On September 7, 1995, the action was dismissed because of Bohannon's failure to comply with an order directing him to file a more definite statement. Bohannon appealed to the Fifth Circuit from that dismissal. The Fifth Circuit vacated the dismissal and remanded the case for further proceedings. Bohannon filed several motions during the pendency of the case, including a motion for sanctions against defendants, a motion for preliminary injunction with supporting brief, a motion for hearing on outstanding motions, a motion for entry of default judgment, a motion to strike defendants' expert witness, a motion to compel discovery, a motion for extension of scheduling order, a motion for extension of time to respond to motion for summary judgment, a motion to strike defendants' motion for summary judgment, a motion for expedited hearing, a motion to modify trial exhibit exchange order, a motion for appointment of counsel, and a motion to allow Bohannon to attend final pretrial conference via telephone. Bohannon filed several other documents, including objections to the court's failure to enforce its orders, failure to appoint counsel for him, and failure to hear his outstanding motions.

Bohannon's complaint was that while housed as a prisoner at San Saba Transfer Unit from April 23, 1993, through July 14, 1994, he was not provided with adequate access to the prison's library or adequate legal

assistance, with the result that he was unable to present arguments and issues relevant to the claims he made in his first and second state writs of habeas corpus. He alleged that because he was unable to adequately present his claims, his first, second, and third state writs were denied, he lost his right to a de novo review with regard to his federal writ, and he was delayed in filing a claim for needed medical treatment. He sought injunctive relief and damages for mental pain and suffering.

On June 25, 1997, the court issued an order granting the motion for summary judgment of defendants, and issued a final judgment for defendants.

Bohannon appealed to the Fifth Circuit from that final judgment. On August 22, 1998, the Fifth Circuit issued its opinion affirming the district court's grant of the defendants' motion for summary judgment.

Case No. 7

September 12, 1995: Application for writ of habeas corpus filed in Criminal District Court No. 1, Tarrant County, Texas, as Case No. 25,282-04. It was resolved by a decision of the Texas Court of Criminal Appeals on November 8, 1995. (The only readily available documentation the court has relative to this case is the information contained in the attached Exhibits "A," "B," and "C.")

Case No. 8

May 8, 1996: Petition for writ of habeas corpus filed by Bohannon on May 8, 1996, in the United States District Court for the Northern District of Texas as Case No. 4:96-CV-326-A. Bohannon represented himself. He complained of the two 25-year sentences he received for aggravated-rape-with-a-deadly-weapon offenses in November 1983 in the Criminal District Court No. 1 of Tarrant County, Texas. His typewritten petition was thirty-three pages in length. He filed several motions, sometimes calling them requests, including a motion requesting extension of the record or, in the alternative, for leave to conduct discovery, a request for statement of facts, a motion for partial summary judgment, a request for order to produce state records,

a request for leave to expand record, a motion for hearing, a motion to extend time to file objections to magistrate judge's findings, or for court intervention, and objections to findings and recommendations of magistrate judge. On February 7, 1997, a memorandum opinion and order and final judgment were issued denying Bohannan's petition. He appealed to the Fifth Circuit from that denial, and the Fifth Circuit affirmed by opinion issued April 1, 1999. The Supreme Court denied writ of certiorari on November 8, 1999.

Case Nos. 9, 10, 11, & 12

December 27, 2001 - March 26, 2002: During this time period Bohannan filed four separate actions in the State of South Carolina in the form of appeals from rulings against him on grievances he had filed against prison employees or officials in the State of South Carolina while he was confined there.³ The appeals were to the South Carolina Administrative Law Judge Division. One of the appeals addressed his grievance pertaining to prison records containing false information relating to an incident involving the misplacement of a prune clipper, another related to a grievance complaining of First Amendment retaliation, the third a grievance complaining of denial of his First Amendment grievance and of racial discrimination, and the fourth complaining

³Bohannan's prison time in South Carolina was the result of a sexual offense against a child that took place while he was on mandatory supervision related to his aggravated-rape-with-a-deadly-weapon offenses. The South Carolina offense was one of three sexual offenses related to children Bohannan appears to have committed, all of which occurred after his aggravated-rape-with-a-deadly-weapon offenses, as the Texas Supreme Court described them in In re Commitment of Bohannan:

In 1991, Bohannan was released on mandatory supervision. In April 1992, he was charged with attempting to kidnap a nine-year-old girl in a K-Mart, and in February 1993, he pleaded guilty, though he now denies he committed any crime. His mandatory supervision was revoked and he was returned to prison.

In 1998, Bohannan was again released on mandatory supervision, and in 2000 he moved to South Carolina to live with his mother. While there, he was convicted of exposing his genitals to an eight-year-old girl in a toy store and sentenced to three years' imprisonment. Bohannan denies that the allegations were true. In 2002, he was returned to prison in Texas.

In 2004, Bohannan was released on mandatory supervision a third time. But in 2006, his release was again revoked, this time for viewing child pornography on a computer in a county law library.

388 S.W.3d at 299-300.

of First and Eighth Amendment violations arising from the denial of dental treatment. In each instance, his appeal was denied with prejudice because he had been released from custody of the South Carolina prison officials. In each instance, Bohannon appealed the dismissal to the McCormick County Court of Common Pleas. As of July 2004, those appeals were still pending. (The only readily available documentation the court has relative to these cases is the information contained in the attached Exhibit "A.")

Case No. 13

October 24, 2003: Complaint alleging violations of the Texas Constitution and the United States Constitution was filed by Bohannon on October 24, 2003, in the United States District Court for the Western District of Texas as Case No. 03-CV-98. He complained of mistreatment by several Texas Department of Criminal Justice-Institutional Division employees during his confinement at a facility in Fort Stockton, Texas, in 2002 and 2003. Bohannon represented himself. His handwritten complaint was thirty-one pages in length. Bohannon filed several motions, including a motion for more definite answer, a motion for appointment of counsel, a motion for authorization to exceed page limitation, a motion for leave to file supplement to the original complaint, a motion for protective order (or a preliminary injunction), reasonable access to the law library, return of confiscated legal documents, and extension of time to file responsive pleadings, and a motion to extend time to file an objection to the report and recommendation of the magistrate judge. Bohannon filed objections to the report and recommendation of the magistrate judge. After the case was returned to the district judge from the magistrate judge, Bohannon filed a motion for enforcement of an order of the court and for appropriate sanctions. On December 15, 2005, the district court adopted the report and recommendation of the magistrate judge, and dismissed Bohannon's claims.

Case Nos. 14, 15, 16, & 17

May 21, 2004: Four petitions for writ of habeas corpus filed with the Texas Court of Criminal Appeals as Case Nos. 25,282-05 through -08. (The only readily available documentation the court has relative to these cases is

the information contained in the attached Exhibits "A," "B," and "C.")

Case Nos. 18, 19, 20, & 21

June 22, 2004: Petitions for writ of habeas corpus filed by Bohannon in the Criminal District Court No. 2, Tarrant County, Texas, as Case Nos. 25-282-09 through -12. (The only readily available documentation the court has relative to these cases is the information contained in the attached Exhibits "A," "B," and "C.")

Case No. 22

July 30, 2004: Complaint filed by Bohannon on July 30, 2004, in the United States District Court for the District of South Carolina as Case No. 9:04-CV-2410-HMH. Bohannon represented himself. At the time Bohannon was imprisoned by the Texas authorities in Bee County, Texas. The facts giving rise to the claims he was asserting occurred during a time period when he was confined in a correctional institution in South Carolina. He sued eleven persons, each of whom was an employee or official of the South Carolina correctional system. The action was brought under 42 U.S.C. §§ 1983, 1985, and 1986 based on violations of the First, Eighth, and Fourteenth Amendments to the United States Constitution and the South Carolina Constitution. His typewritten complaint was thirty-six pages in length. Attached to the complaint was a list of prior litigation in which Bohannon had been involved, which listed seven non-habeas actions and six habeas actions. A copy of that list is attached hereto as Exhibit "A." He complained of events that occurred when he was imprisoned in South Carolina from March 2001 until May 2002. His complaints were of denial of dental care, racial discrimination and First Amendment violations, retaliation for the exercise of his First Amendment rights. Bohannon filed a motion to extend time to file motion to compel answers to interrogatories, a motion to compel answers to interrogatories, a motion for appointment of counsel, and a motion for extension of time to file objections to report and recommendation of magistrate judge. Defendants filed a motion for summary judgment, which was granted; and, Bohannon's claims were dismissed by a memorandum opinion and order and judgment in a civil case in July 2005. Bohannon appealed to the

United States Court of Appeals for the Fourth Circuit, which dismissed the appeal for failure to prosecute by order and mandate issued in December 2005.

Case No. 23

June 2, 2005: Petition for writ of habeas corpus filed by Bohannon on June 2, 2005, in the United States District Court for the Northern District of Texas as Case No. 4:05-CV-344-A. Bohannon represented himself. He provided a litigation history, a copy of which is attached hereto as Exhibit "B." The typewritten, petition was forty-seven pages in length. Bohannon's first ground complained of the effectiveness of his trial counsel in his case charging him with two aggravated-rape-with-a-deadly-weapon offenses. His other grounds complained of matters pertaining to his conditions of confinement while serving his sentence for commission of those offenses and related matters. By order and final judgment issued March 16, 2006, Bohannon's petition was dismissed as to two grounds and denied as to two grounds. Bohannon appealed to the Fifth Circuit, which issued an order on March 6, 2008, denying Bohannon a certificate of appealability. His petition for writ of certiorari was denied in April 2009. On March 10, 2010, Bohannon filed a Rule 60 motion for relief from the final judgment of dismissal, which was denied by order issued March 10, 2010.

Case Nos. 24 & 25

September 21, 2007: Petitions for writ of habeas corpus filed by Bohannon on September 21, 2007, in the Texas Court of Criminal Appeals as Case Nos. 25,282-14 through -15. (The only readily available documentation the court has relative to these cases is the information contained in the attached Exhibit "C.")

Case Nos. 26, 27, & 28

September 23, 2009: Petitions for writ of habeas corpus filed by Bohannon on September 23, 2009, in Criminal District Court No. 1, Tarrant County, Texas, as Case Nos. C-1-008896-0222921-J, C-1-008897-020173, and C-008898-0201732-J. (The only readily available documentation the court has relative to these cases is the information contained in the attached Exhibit "C.")

Case No. 29

November 5, 2009: Petition for writ of habeas corpus filed by Bohannan on November 5, 2009, in the United States District Court for the Northern District of Texas as Case No. 4:09-CV-662-A. Bohannan represented himself. He again was complaining of his two 25-year sentences for aggravated-rape-with-a-deadly-weapon offenses. His handwritten motion was eighty-two pages in length exclusive of what appear to be in excess of 100 pages of attachments. His petition contained a list of other court actions in which he was a party, a copy of which is attached hereto as Exhibit "C." On November 10, 2009, Bohannan filed a forty-one page handwritten document titled "Petitioner's 28 U.S.C. § 2254(e)(1) Rebuttal" by which he said he was rebutting the state court's factual determinations. The court construed his claims for relief to be as follows:

- (1) His September 29, 2006, revocation was determined through practices and procedures, in violation of his constitutional rights, state statutory law, and agency policies;
- (2) He was denied time credit for the time he was "imprisoned" by TDCJ on SISP, in violation of his constitutional rights;
- (3) Texas officials retroactively implemented or applied a law, rule, or policy, which did not exist at the time of the offenses, resulting in a longer period of incarceration, in violation of his constitutional rights;
- (4) He was denied the right to provide input and other evidence in his favor concerning possible employment and housing in TDCJ's December 5, 2003, and later, determinations of supervision levels and conditions of his release, in violation of his constitutional rights;
- (5) He should be allowed to withdraw his guilty pleas because the state failed to comply with the plea bargain agreement by releasing

him on mandatory supervision, against his wishes, rather than allowing him to serve his sentences in TDCJ confinement;

- (6) His November 14, 1983, convictions were obtained by pleas of guilty that were not made knowingly and voluntarily due to an undiagnosed congenital or acquired behavioral abnormality; and
- (7) He is being denied a timely preliminary revocation hearing in violation of his constitutional rights. (Petition at 11-82)

By order and final judgment issued April 23, 2010, Bohannan's claims (1) through (4) were dismissed as time-barred, (5) and (6) were dismissed with prejudice as procedurally barred, and (7) was dismissed without prejudice for failure to exhaust.

The Fifth Circuit vacated the April 23, 2010 judgment and remanded for reconsideration in the light of the Supreme Court's decision in Wall v. Kholi, 562 U.S. 545 (2011). On July 20, 2012, the court issued an order on remand and a final judgment dismissing as moot claims (1) and (4) and denying claims (2) and (3). On October 25, 2012, the Fifth Circuit denied Bohannan's certificate of appealability as to this court's ruling on a Rule 60(b) Bohannan had filed. On August 6, 2013, the Fifth Circuit dismissed Bohannan's appeal from this court's ruling on his habeas petition.

Case No. 30

March 30, 2011: Filing by Bohannan of his civil rights complaint in the United States District Court for the Western District of Texas, as Case No. 1:11-CV-250-SS. This is the same case as the case now pending in the Northern District of Texas as Case No. 4:11-CV-299-A after transfer from the Western District to the Northern District.

Case No. 31

November 14, 2014: Petition for writ of habeas corpus filed by Bohannan on November 14, 2014, in the United States District Court for the Northern District of Texas as

Case No. 2:14-CV-235-J. Bohannan represented himself. His typewritten petition of ten pages in length was accompanied by a typewritten memorandum twenty-seven pages in length. The grounds of the petition related to execution of his sentences resulting from his 1983 convictions in two cases (Case Nos. 0201732 and 0222921) in Criminal District Court No. 1 of Tarrant County, Texas, for aggravated rape with a deadly weapon. He complained of actions of the Board of Pardons and Paroles during or leading to proceedings for revocation of his parole related to, inter alia, violation of the terms or conditions of his civil commitment in early 2009. The court denied Bohannan's motion for leave to proceed in forma pauperis, and dismissed the petition by judgment signed January 16, 2015. Bohannan has appealed the dismissal to the United States Court of Appeals for the Fifth Circuit, and the appeal is now pending.

* * * * *

The court hereby informs the parties of its intent to take judicial notice of the facts set forth in the listing provided above. As that listing reflects, the court has information that Bohannan represented himself in nine of the listed cases. Because of the nature of the other cases, the probability is that he represented himself in each of those cases as well, though the court does not have the records of those other cases that would provide the court precise information on that subject. Appeals were taken by Bohannan from the court's rulings in many of the listed cases, and the probability is that Bohannan represented himself in some, if not most, of those appeals. In some instances, he has been successful in his self-representation on appeal, including the first appeal he took in the instant action.

Not only has Bohannon handled his own legal representation sufficiently over the years to be a polished self-litigator by now, when he has had court-appointed legal representation, he apparently considered himself better informed on the law than his attorneys. As examples:

In connection with one of his appeals to the Court of Criminal Appeals of Texas from the denial of a state court petition for writ of habeas corpus, the Texas appellate court noted that:

We have received numerous documents from applicant himself, but applicant is represented by counsel and is not entitled to hybrid representation. Because applicant is represented by counsel, we disregard his numerous pro se submissions and take no action on them.

Ex parte Bohannon, 350 S.W.3d 116, 116-17 n.1 (Tex. Crim. App. 2011) (citations omitted). And, when appealing from the life sentence he is now serving, Bohannon invoked the right to represent himself notwithstanding court-appointed counsel, a tactic rejected by the Beaumont Court of Appeals of Texas with the following explanation:

Bohannon accepted representation by counsel, then filed pro se motions which he argues invoked his right to represent himself. However, the trial court was not obliged to read Bohannon's pro se motions. Additionally, Bohannon did not ask to proceed pro se at any time during the pretrial hearing and arraignment. Under these circumstances, we conclude the failure to allow Bohannon to proceed pro se was not an abuse of the trial court's discretion.

Bohannon v. State, No. 09-13-00090-CR, 2014 WL 5490936 at *7 (Tex. App.--Beaumont, Oct. 29, 2014, pet. filed) (citations omitted).

So confident is Bohannon in his ability to provide satisfactory legal representation for himself that he has complained to the Court of Criminal Appeals of Texas that the Beaumont Court of Appeals of Texas erred in imposing appellate counsel on him against his wishes. Bohannon v. State, No. PD-0347-15, Tex. Ct. of Criminal Appeals, Pet. for Discretionary Review filed May 29, 2015 at 10-14. Moreover, he complained that he was not permitted to represent himself in the trial of the criminal case that resulted in his life sentence. Id. at 5-9. He is now representing himself in his Petition for Discretionary Review pending before the Texas Court of Criminal Appeals. Id.

The court is not persuaded that Bohannon needs counsel to assist him in the instant litigation, and the court considers that his representation that he has "very limited experience conducting litigation on his own behalf" is a misrepresentation. Also, the court considers that Bohannon's most-recent misrepresentation is but a continuation of misrepresentations he has made in this action concerning his litigation history, starting with the complaint by which he initiated the action on March 30, 2011. In the very first section of his March 30, 2011

complaint, Bohannon alleged, under the heading "PREVIOUS LAWSUITS," the following:

Plaintiff has filed two prior lawsuits in the federal district courts. In the early 2000's Plaintiff filed a § 1983 action in a district court in South Carolina addressing a denial of dental care in a South Carolina prison. Plaintiff believes that action was dismissed. In, or close to 2004, Plaintiff filed a § 1983 action in the Pecos Division addressing an excessive use of force which occurred on the TDCJ's Lynaugh Unit. Plaintiff believes that action was denied.

Plaintiff filed a declaratory judgment action in state court in Austin. It was returned to the trial court on appeal and Plaintiff is unsure as to what occurred thereafter (he could never get a hearing of the matter).

Plaintiff has provided all the information he possesses about these prior actions and, because of his present circumstances, is unable to obtain more.

Doc. 1 at 2.⁴ The listing set forth above discloses that those allegations were not candid. The appearance is that Bohannon is trying to use his status as an imprisoned criminal to obtain special treatment by the court, and is using false representations to the court in order to further his goal. The court has given, and will continue to give, Bohannon whatever special consideration he should receive by reason of his imprisonment, but the court should, and does, take into account his litigation history.

* * * * *

⁴The "Doc. ____" reference is to the number assigned to the referenced item on the civil docket in this Case No. 4:11-CV-299-A.

The court ORDERS that such motion for reconsideration be,
and is hereby, denied.

SIGNED October 14, 2015.



JOHN MCBRYDE

United States District Judge

PLAINTIFF'S PRIOR LITIGATION

Plaintiff, Michael W. Bohannon, filed the below listed legal actions in the court so designated:

NON-HABEAS ACTIONS

1. On January 5, 1995, Plaintiff filed a civil action in the 345th District Court located in Travis County, Texas. The cause number assigned is 95-00141. The parties are Michael W. Bohannon v. Texas Board of Criminal Justice and Texas Department of Criminal Justice. Plaintiff believes the case remains assigned to the Honorable Mary Pearl Williams. The matter remains pending.
2. On May 9, 1995, Plaintiff filed a civil rights claim in the Southern District of Texas - Houston Division. The cause number assigned was H-95-CV-1435. The parties were Michael Bohannon v. TDCJ-ID, James Collins, Wayne Scott, Sherry Brown, Frank Hoke, Bruce August, and Jesse Rolan. The case was assigned to the Honorable David Hittner and Plaintiff believes it was denied after being vacated by the Fifth Circuit Court of Appeals.
3. On December 27, 2001, Plaintiff filed an appeal of the SCDC's denial of his grievance which addressed his prison records containing false information relating to an incident involving the misplacement of pruning clipper, on May 16, 2001, by an employee of the SCDC. Plaintiff's appeal was to the South Carolina Administrative Law Judge Division with a cause number 01-ALJ-04-01561 issued. The parties were Michael Bohannon v. SCDC. On July 17, 2002, the A.L.J.D. dismissed the appeal with prejudice because Plaintiff had been released from the custody of the SCDC. Plaintiff appealed the dismissal, on July 29, 2002, to the McCormick County Court of Common Pleas with a cause no. 2002-CP-35-97 assigned. The matter remains pending.
4. On March 15, 2002, Plaintiff filed an appeal of the SCDC's denial of his grievance which addressed a First Amendment Retaliation claim against SCDC McCormick Correctional Institution's Assistant Warden C. Kendall. Plaintiff's appeal was to the South Carolina Administrative Law Judge Division with a cause number 02-ALJ-04-00123 issued. The parties were

Exhibit "A"
(consisting of 4 pages)
Page 1 of 4

Michael Bohannon v. SCDC, Tracie Baxley, Sandra S. Bowie, I.A. Culbreath, and C. Kendall.

On July 17, 2002, the A.L.J.D. dismissed the appeal with prejudice because Plaintiff had been released from the custody of the SCDC. Plaintiff appealed the dismissal, on July 30, 2002, to the McCormick County Court of Common Pleas with a cause no. 2002-CP-35-98 assigned. The matter remains pending.

5. On March 19, 2002, Plaintiff filed an appeal of the SCDC's denial of his grievance which addressed First Amendment and racial discrimination violations by an SCDC employee W. Oliver on August 26, 2001. Plaintiff's appeal was to the South Carolina Administrative Law Judge Division with a cause number 02-ALJ-04-00124 issued. The parties were Michael Bohannon v. SCDC, W. Oliver, I.A. Culbreath, Tracie Baxley, and Sandra Bowie.

(On July 17, 2002, the A.L.J.D. dismissed the appeal with prejudice because Plaintiff had been released from the custody of the SCDC. Plaintiff appealed the dismissal, on August 5, 2002, to the McCormick County Court of Common Pleas with a cause no. 2002-CP-35-102 assigned. The matter remains pending.

6. On March 26, 2002, Plaintiff filed an appeal of the SCDC's denial of his grievance which addressed First and Eighth Amendment violations arising from a denial of dental treatment by an SCDC employee, Dr. Alcye Y. Hawes. Plaintiff's appeal was to the South Carolina Administrative Law Judge Division with a cause number 02-ALJ-04-00125 issued. The parties were Michael Bohannon v. SCDC, Gary D. Maynard, Richard Stroker, Tracie Baxley, Sandra S. Bowie, I.A. Culbreath, Frazier Jackson, Dr. Medrina Gilliam, Janice Phillips, Dr. A. Hawes, and Ms. Freeman.

On July 17, 2002, the A.L.J.D. dismissed the appeal with prejudice because Plaintiff had been released from the custody of the SCDC. Plaintiff appealed the dismissal, on August 5, 2002, to the McCormick County Court of Common Pleas with a cause no. 2002-CP-35-101 assigned. The matter remains pending.

7. On, or about, October 22, 2003, Plaintiff filed a 42 U.S.C. §1983 Complaint arising out of an unwarranted and excessive use of force which occurred in a Texas prison. Plaintiff filed the cause in the U. S.

Exhibit "A"
(consisting of 4 pages)
Page 2 of 4

District Court for the Western District of Texas, Pecos Division with a cause number P-03-CV-98 issued. The parties are Michael W. Bohannon v. Allen R. Collins, TDCJ, Richard Morris, Paul K. Weatherby, Saul M. Trujillo, Reynaldo Marquez, Manuel D. Castellano, and Eunice M. Chavarria. The cause has been assigned to the Honorable Robert Junell. The matter remains pending.

HABEAS ACTIONS

1. In July or August of 1993, on an unknown date, and on November 11, 1994, Plaintiff filed state habeas actions in the Texas Court of Criminal Appeals. They were numbered 25,282-01 thru -03. Each was filed as an ex parte petition. They were each denied, without written order, on September 23, 1993; June 29, 1994; and March 15, 1995 respectively.
2. On October 7, 1994, Plaintiff filed a federal habeas petition in the Northern District of Texas - Fort Worth Division. The cause number assigned was 94-CV-684. The parties were Michael Bohannon v. E.G. Owens and Wayne Scott. The Honorable John McBryde dismissed the petition without prejudice, at the petitioner's request, to exhaust state remedies.
3. On September 12, 1995, Plaintiff returned to the Texas Court of Criminal Appeals to exhaust his remaining habeas issues. The ex parte petition was numbered 25,282-04. On November 9, 1995, the Court dismissed the petition without written order.
4. On May 8, 1996, Plaintiff returned to federal court with his habeas claims, now exhausted. The Northern District of Texas - Fort Worth Division assigned the petition the cause number 96-CV-326. The parties were Michael Bohannon v. Wayne Scott. The Honorable John McBryde heard the petition and dismissed it. The Fifth Circuit Court of Appeals granted an appeal which they heard and denied. The United States Supreme Court denied Certiorari on November 8, 1999.
5. On May 21, 2004, Plaintiff filed four habeas petitions in the Texas Court of Criminal Appeals. The ex parte petitions were numbered 25,282-05 thru -08. The Court dismissed them because of a defect in the form, ordering Plaintiff to correct the error and re-file them if he desired that they be heard.

Exhibit "A"
(consisting of 4 pages)
Page 3 of 4

6. On June 22, 2004, Plaintiff re-filed his four habeas petitions, in the trial court, for processing and forwarding to the Texas Court of Criminal Appeals. Those petitions, when filed in the Court of Criminal Appeals, will be numbered 25, 282-09 thru -12. They remain pending.

Plaintiff, Michael W. Bohannon affirms that the foregoing litigation history is complete and correct to the best of his knowledge and belief.

Executed on this the 15th day of July, 2004.


Michael W. Bohannon

10. Other than a direct appeal, have you filed any petitions, applications or motions from this judgment in any court, state or federal? This includes any state application for writ of habeas corpus that you may have filed.

☒ Yes ☐ No

11. If your answer to 10 is "Yes," give the following information:

Name of court: Criminal District Court #1 Tarrant County

Nature of proceeding: Habeas Corpus Application

Cause number (if known): 25,282-01

Date (month, day and year) you filed the petition, application or motion as shown by a file-stamped date from the particular court.

August 6, 1993

Grounds raised: Time Credit Deprivation

Date of final decision: September 29, 1993

Name of court that issued the final decision: Texas Court of Criminal Appeals

As to any second petition, application or motion, give the same information:

Name of court: Criminal District Court #1 Tarrant County

Nature of proceeding: Habeas Corpus Application

Date (month, day and year) you filed the petition, application or motion as shown by a file-stamped date from the particular court.

May 16, 1994

Grounds raised: Time Credit Deprivation

Date of final decision: June 29, 1994

Name of court that issued the final decision: Texas court of Criminal Appeals

*** (Continued on Additional Pages) ***

If you have filed more than two petitions, applications, or motions, please attach an additional sheet of paper and give the same information about each petition, application, or motion.

Litigation History Continued

C. Third Filing

Name of Court: Criminal District Court #1 Tarrant County
Nature of Proceeding: Habeas Corpus Application
Cause Number: 25,282-03
Filing Date: November 11, 1994
Grounds Raised: Revocation related Due Process violations
Date of final decision: March 15, 1995
Name of final decision Court: Texas Court of Criminal Appeals

D. Fourth Filing

Name of Court: U.S. District Court Northern District of Texas - Ft. Worth
Nature of Proceeding: Habeas Corpus Application
Cause Number: 94-CV-684
Filing Date: October 7, 1994
Grounds Raised: Time Credit Deprivation and Revocation Errors
Date of final decision: ??/??/??
Name of final decision Court: U.S. District Court - Ft. Worth Division

E. Fifth Filing

Name of Court: Criminal District Court #1 Tarrant County
Nature of Proceeding: Habeas Corpus Application
Cause Number: 25,282-04
Filing Date: September 12, 1995
Grounds Raised: Ex Post Facto Board Policy
Date of final decision: November 8 1995
Name of final decision Court: Texas Court of Criminal Appeals

F. Sixth Filing

Name of Court: U.S. District Court Northern District of Texas - Ft. Worth
Nature of Proceeding: Habeas Corpus Application
Cause Number: 96-CV-326
Filing Date: May 8, 1996
Grounds Raised: Grounds raised in foregoing state writ applications.
Date of final decision: ??/??/??
Name of final decision Court: U.S. Supreme Court

G. Seventh Filing

Name of Court: Criminal District Court #1 Tarrant County
Nature of Proceeding: Habeas Corpus Application
Cause Number: 25,282-05 thru -08
Filing Date: May 11, 2004
Grounds Raised: Those raised in this Petition
Date of final decision: June 2, 2004 (Dismissed because of form error)
Name of final decision Court: Texas Court of Criminal Appeals

H Eighth Filing

Name of Court: Criminal District Court #1 Tarrant County
Nature of Proceeding: Habeas Corpus Application
Cause Number: 25,282-09 thru -12
Filing Date: June 22, 2004
Grounds Raised: Those raised in this Petition
Date of final decision: May 18, 2005
Name of final decision Court: Texas Court of Criminal Appeals

END OF RESPONSES TO QUESTION #11.

10. Other than a direct appeal, have you filed any petitions, applications, or motions from this judgment in any court, state or federal? This includes any state application for writ of habeas corpus that you may have filed.

☒ Yes ☐ No

11. If your answer to 10 is "Yes," give the following information: *(Petitioner has provided all the data he has access to and/or believes is correct.)*

Name of court: Texas Court of Criminal Appeals

Nature of proceeding: Tex. C. Crim. P. art. 11.07

Cause number (if known): 25,282-01

Date (month, day and year) you filed the petition, application, or motion as shown by a file-stamped date from the court.

[Tex. Crim. App. decision date - , 1993]

Grounds raised: failure to restore good time credits

Date of final decision: Nov. 8, 1999

Name of court that issued the final decision: United States Supreme Court

As to any second petition, application, or motion, give the same information:

Name of court: Texas Court of Criminal Appeals

Nature of proceeding: Tex. C. Crim. P. art. 11.07

Cause number (if known): 25,282-02

Date (month, day, and year) you filed the petition, application or motion as shown by a file-stamped date from the court.

[Tex. Crim. App. decision date - June 29, 1994]

Grounds raised: failure to restore good time credits

Date of final decision: Nov. 8, 1999

Name of court that issued the final decision: United States Supreme Court

If you have filed more than two petitions, application, or motions, please attach an additional sheet of paper and give the same information about each petition, application, or motion. See Pages 4 thru 8 attached.

3. Name of court: USDC Northern Dist of Texas - Ft. Worth Div.

Nature of proceeding: 28 U.S.C.S. § 2254

Cause Number: 4:94-CV-684-A

File Date: , 1994

Grounds Raised: failure to restore good time credits, 1993 revocation

Final Decision date: _____ (dismissed w/o prejudice-exhaustion grounds)

Name of Final Decision court: USDC Northern Dist. of Texas - Ft. Worth Div.

4. Name of court: Texas Court of Criminal Appeals

Nature of proceeding: Tex. C. Crim. P. art. 11.07

Cause Number: 25,282-03

File Date: [Tex. Crim. App. decision date March 15, 1995]

Grounds Raised: failure to restore good time credits, 1993 transfer of custody violating plea agreement.

Final Decision date: Nov. 8, 1999

Name of Final Decision court: United States Supreme Court

5. Name of court: Texas Court of Criminal Appeals

Nature of proceeding: Tex. C. Crim. P. art. 11.07

Cause Number: 25,282-04

File Date: [Tex. Crim. App. decision date Nov. 8, 1995]

Grounds Raised: 1993 revocation

Final Decision date: Nov. 8, 1999

Name of Final Decision court: United States Supreme Court

Exhibit "C"
(consisting of 6 pages)
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6. Name of court: USDC Northern Dist. of Texas - Fort Worth Div.
Nature of proceeding: 28 U.S.C.S. § 2254
Cause Number: 4:96-CV-326
File Date: , 1996 [USDC decision date , 1997]
Grounds Raised: issues presented in 1-5 above.

Final Decision date: Nov. 8, 1999

Name of Final Decision court: United States Supreme Court

7. Name of court: Fifth Circuit Court of Appeals
Nature of proceeding: 28 U.S.C.S. § 2254 appeal
Cause Number: 97-10251
File Date: , 1997 [5th Cir. decision date April 1, 1999]
Grounds Raised: issues presented in 1-6 above.

Final Decision date: Nov. 8, 1999

Name of Final Decision court: United States Supreme Court

8. Name of court: United States Supreme Court
Nature of proceeding: writ of certiorari application
Cause Number: 99-6405
File Date: , 1999
Grounds Raised: issues presented in 1-7 above.

Final Decision date: Nov. 8, 1999

Name of Final Decision court: United States Supreme Court

Exhibit "C"
(consisting of 6 pages)
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9. Name of court: Texas Court of Criminal Appeals
Nature of proceeding: Tex. C. Crim. P. art. 11.07
Cause Number: 25,282-05 thru 25,282-08
File Date: , 2004 [Tex. Crim. App. decision date June 2, 2004]
Grounds Raised: ineffective assistance of counsel, 2002 revocation, time credit denial arising from SISP.
Final Decision date: June 2, 2004
Name of Final Decision court: Texas Court of Criminal Appeals

10. Name of court: Texas Court of Criminal Appeals
Nature of proceeding: Tex. C. Crim. P. art. 11.07
Cause Number: 25,282-09 thru 25,282-12
File Date: , 2004 [Tex. Crim. App. decision date May 18, 2005]
Grounds Raised: issues presented in 9 above.

Final Decision date: March 30, 2009
Name of Final Decision court: United States Supreme Court

11. Name of court: USDC Northern Dist. of Texas - Fort Worth Div.
Nature of proceeding: 28 U.S.C.S § 2254
Cause Number: 4:05-cv-0344-A
File Date: June 2, 2005 [USDC decision date March 16, 2006]
Grounds Raised: issues presented in 9-10 above

Final Decision date: March 30, 2009
Name of Final Decision court: United States Supreme Court

12. Name of court: Fifth Circuit Court of Appeals

Nature of proceeding: 28 U.S.C.S § 2254 appeal

Cause Number: 07-10621

File Date: June 18, 2007 (notice of appeal filed)

Grounds Raised: issues presented in 9-11 above

Final Decision date: March 30, 2009

Name of Final Decision court: United States Supreme Court

13. Name of court: Texas Court of Criminal Appeals

Nature of proceeding: Tex. Cr. Crim. P. art. 11.07

Cause Number: 25,282-14 thru 25,282-15

File Date: Sept. 21, 2007 [Tex. Crim. App. decision date July 8, 2009]

Grounds Raised: Grounds One thru Four in this petition.

Final Decision date: *Last decision was on July 8, 2009.

Name of Final Decision court: *Last decision was by Tex. Court Crim. App.

14. Name of court: United States Supreme Court

Nature of proceeding: writ of certiorari application

Cause Number: 08-8387

File Date: , 2008

Grounds Raised: issues presented in 9-12 above.

Final Decision date: March 30, 2009

Name of Final Decision court: United States Supreme Court

Exhibit "C"

(consisting of 6 pages)

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15. Name of court: Criminal Dist. Court No. 1 Tarrant County
Nature of proceeding: Tex. C. Crim. P. art. 11.07
Cause Numbers: C-1-008896-0222921-J and C-1-008897-020173:
File Date: Sept. 23, 2009
Grounds Raised: Grounds Five thru Six in this position.

Final Decision date: No decision yet

Name of Final Decision court: N/A

16. Name of court: Criminal Dist. Court No. 1 Tarrant County
Nature of proceeding: Tex. C. Crim. P. art 11.07
Cause Number: C-1-008898-0201732-J
File Date: Sept. 23, 2009
Grounds Raised: Ground Seven in this position.

Final Decision date: No decision yet

Name of Final Decision court: N/A